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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,228	11/16/2005	Graham McIntyre	15373.0002	6730
27890	7590	04/14/2009	EXAMINER	
STEP TOE & JOHNSON LLP 1330 CONNECTICUT AVENUE, N.W. WASHINGTON, DC 20036			SWARTZ, RODNEY P	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

1. Applicants' Response to Final Office Action, received 9 March 2009, is acknowledged. Claim 3 has been amended.
2. Claims 3, 8-10, 12-16 and 18-28 are pending and under consideration.

Rejection Withdrawn

3. The rejection of claims 3 and 8-10 under 35 U.S.C. 102(b) as being anticipated by Matson et al (U.S. Pat. No. 4,599,310) is withdrawn in light of applicants' arguments.
4. The rejection of claims 12-16 and 26 under 35 U.S.C. 112, second paragraph, as being indefinite for dependence from rejected claims, is withdrawn.

Double Patenting

5. Claims 8-10 are objected to under 37 CFR 1.75 as being a substantial duplicate of claim 3.
3. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim 3 is a pharmaceutical composition comprising isolated killed whole cells of a bacterium and a pharmaceutically acceptable carrier, diluent or excipient.

Claim 8 is a pharmaceutical composition according to claim 3 "for use as a medicament".

Claim 9 is a pharmaceutical composition according to claim 3 "for use in or as a vaccine".

Claim 10 is a pharmaceutical composition according to claim 9 "wherein said vaccine is a prophylactic vaccine or a therapeutice vaccine".

The recitation of intended use in claims 8-10 place no patentable difference on the claims over that of claim 3.

Conclusion

6. Claims 8-10 are objected to. Claims 3, 12-16 and 18-28 are allowed.
7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rodney P. Swartz, Ph.D., Art Unit 1645, whose telephone number is (571) 272-0865. The examiner can normally be reached on Monday through Wednesday from 9:00 AM to 7:30 PM EST. Thursday is the examiner's work at home day.

If attempts to reach the Examiner by telephone are unsuccessful, please contact the Examiner's Supervisor, Robert B. Mondesi (571)272-0956.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Rodney P. Swartz, Ph.D./

Primary Examiner, Art Unit 1645

April 10, 2009